



Dear Colleagues

The BCX management conciliation referral relating to unfair labour practice was heard at the CCMA Cape Town office on Tuesday 31 July 2018.

The issues in dispute were as follows: PDMS vs Italent, the STI Payment benefit and the moderation of marks non-mathematically.

BCX was represented by an employee relations practitioner. The Alliance was represented by Lionel Samuels and myself. Two managers, one from sales and the other from Cybernest, were present.

Lionel presented our opening remarks without any controversy or challenge from the ER practitioner. When the BCX practitioner started his representation he questioned the

merit of the 7.11 form that, according to him, was lodged with the CCMA.

He was of the opinion that the referral on the 7.11 form was limited to the mid-term assessment. After some further interrogation it became known that he had the wrong form in his bundle of evidence!

After some interrogation by the CCMA commissioner on the fairness of the moderation of marks downwards while not using a mathematically accepted practice the BCX representative requested a caucus. After his telephonic caucus with Hannelie he indicated that BCX were aware that a system error occurred in rounding off the ratings. He went on to indicate that BCX were in the process of correcting this error.

He then claimed that this does not mean the applicants would receive STI payments as BCX did not make their financial targets. He also stated that the bargaining unit employees who achieved a "met" mark on PDMS would get their 14th Cheque as well as a STI payment for those that qualified.

When questioned as to which STI policy BCX use, because to the best of our knowledge BCX do not have one, he indicated that it was Telkom's STI policy which was used. Lionel followed that up by stating that Telkom's policy should then be applicable. The commissioner suggested that the Alliance and BCX should meet in a pre-arbitration meeting trying to narrow or resolve these matters amicably.

The Alliance agreed on condition that the non-resolution certificate is still issued and strict timelines were set.

The Alliance want to combine all the issues affecting management personnel in this dispute.

The dispute regarding the PDMS non-compliance in the bargaining unit was heard at the CCMA Cape Town on 23 July 2018.

BCX were represented by Hannelie and legal counsel. The legal counsel's first defence was that they were not aware of what was in dispute. The Alliance Representatives , Lionel Samuels and Keith Aimes, pointed out that the referral as well as the conciliation was clear.

BCX legal counsel then argued jurisdiction. His point of contention was because it refers to an interpretation and application of a collective agreement, the Alliance must first prove that the agreement is still applicable because BCX gave notice to the unions. The commissioner then insisted that arguments on this point need to be made immediately and not, as was proposed by BCX , that it should be in writing.

BCX further argued that no affected employees were present therefore the matter should be removed from the roll.

The CCMA ruled that they do have jurisdiction on the matter and can arbitrate the matter. The commissioner went further by saying that even if SACU had received notice when the matter was filed the other parties did not receive notice at that point. A date

for the arbitration was therefore set for 23 August 2018.

The STI dispute lodged on behalf of the bargaining unit employees must be referred. Any Cybernest bargaining unit staff interested in aligning with this dispute must please forward their names to Lionel Samuels or myself, lsamuels2108@gmail.com or karr1em@me.com.

The organizational dispute we will follow up. We need to know what the delay in issuing a date from the Pretoria CCMA office is.

The complaint against the commissioner will be followed up by Lionel next week.

We have attached application forms for easy reference in joining the Alliance (CWU & SACU)

THE CHOICES YOU MAKE, NOT THE CHANCES YOU TAKE DETERMINE YOUR DESTINY...

END
